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CLERK U.S. DISTRICT COURT
DISTRICT OF ARIZONA

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

United States of America,
Plaintiff,

v.

Jose Luis Molina-Rodriguez,
Defendant.

No. 23-CR-01041-PHX-SPL

PLEA AGREEMENT

The United States of America and the defendant, Jose Luis Molina-Rodriguez, hereby agree to dispose of this matter on the following terms and conditions:

PLEA

The defendant agrees to plead guilty to Count 1 of the Indictment charging the defendant with a violation of Title 8, United States Code, Sections 1324(a)(1)(A)(ii), (a)(1)(A)(v)(I) and 1324(a)(1)(B)(i), Conspiracy to Transport Illegal Aliens for Profit, a Class C felony offense.

1. MAXIMUM PENALTIES

a. A violation of Title 8, United States Code, Section 1324(a)(1)(A)(ii), (a)(1)(A)(v)(I) and 1324(a)(1)(B)(i) is punishable by a maximum fine of \$250,000.00, a maximum term of imprisonment of ten years, or both, and a maximum term of supervised release of three years. The maximum term of probation is five years.

b. According to the Sentencing Guidelines issued pursuant to the Sentencing

1 Reform Act of 1984, the Court shall order the defendant to:

2 (1) make restitution to any victim of the offense pursuant to 18 U.S.C. § 3663
3 and/or 3663A, unless the Court determines that restitution would not be appropriate;

4 (2) pay a fine pursuant to 18 U.S.C. §3572, unless the Court finds that a fine is
5 not appropriate;

6 (3) serve a term of supervised release when required by statute or when a
7 sentence of imprisonment of more than one year is imposed (with the understanding that
8 the Court may impose a term of supervised release in all other cases);

9 (4) pay upon conviction a \$100 special assessment for each count to which the
10 defendant pleads guilty pursuant to 18 U.S.C. § 3013(a)(2)(A); and

11 (5) pay upon conviction an additional \$5,000 special assessment pursuant to 18
12 U.S.C. § 3014(a), unless the Court determines that the defendant is indigent.

13 c. The Court is required to consider the Sentencing Guidelines in determining
14 the defendant's sentence. However, the Sentencing Guidelines are advisory, and the Court
15 is free to exercise its discretion to impose any reasonable sentence up to the maximum set
16 by statute for the crime(s) of conviction, unless there are stipulations to the contrary that
17 the Court accepts.

18 **2. AGREEMENTS REGARDING SENTENCING**

19 a. Recommendation: Acceptance of Responsibility. Pursuant to Fed. R. Crim.
20 P. 11(c)(1)(B), if the defendant makes full and complete disclosure to the Probation Office
21 of the circumstances surrounding the defendant's commission of the offense, and if the
22 defendant demonstrates an acceptance of responsibility for this offense up to and including
23 the time of sentencing, the United States will recommend a two-level reduction pursuant
24 to U.S.S.G. § 3E1.1. If the defendant has an offense level of 16 or more, the United States
25 will move for an additional one-level reduction pursuant to U.S.S.G. § 3E1.1.

26 b. Stipulation: Sentencing Cap. Pursuant to Fed. R. Crim. P. 11(c)(1)(C), the
27 United States and the defendant stipulate and agree that the defendant's sentence shall not
28 exceed the middle of the sentencing range as calculated under U.S.S.G. § 1B1.1(a). This

1 stipulated sentencing cap will not change based on departures considered under U.S.S.G.
 2 § 1B1.1(b). Nothing in this agreement shall preclude the defendant from moving for a
 3 downward departure, variance, or sentence below the cap, or the court from imposing a
 4 sentence below the cap.

5 c. Stipulation: Role. Pursuant to Fed. R. Crim. P. 11(c)(1)(C), the United States
 6 and the defendant stipulate and agree that based on the facts known to the government, the
 7 defendant smuggled, transported or harbored at least 6 but no more than 24 illegal aliens
 8 pursuant to U.S.S.G. § 2L1.1(b)(2)(A).

9 d. Non-Binding Recommendations. The defendant understands that
 10 recommendations are not binding on the Court. The defendant further understands that the
 11 defendant will not be permitted to withdraw the guilty plea if the Court does not follow a
 12 recommendation.

13 3. AGREEMENT TO DISMISS OR NOT TO PROSECUTE

14 This agreement does not, in any manner, restrict the actions of the United States in
 15 any other district or bind any other United States Attorney's Office.

16 4. COURT APPROVAL REQUIRED; REINSTITUTION OF PROSECUTION

17 a. If the Court, after reviewing this plea agreement, concludes that any
 18 provision contained herein is inappropriate, it may reject the plea agreement and give the
 19 defendant the opportunity to withdraw the guilty plea in accordance with Fed. R. Crim. P.
 20 11(c)(5).

21 b. If the defendant's guilty plea or plea agreement is rejected, withdrawn,
 22 vacated, or reversed at any time, this agreement shall be null and void, the United States
 23 shall be free to prosecute the defendant for all crimes of which it then has knowledge and
 24 any charges that have been dismissed because of this plea agreement shall automatically
 25 be reinstated. In such event, the defendant waives any and all objections, motions, and
 26 defenses based upon the Statute of Limitations, the Speedy Trial Act, or constitutional
 27 restrictions in bringing later charges or proceedings. The defendant understands that any
 28 statements made at the time of the defendant's change of plea or sentencing may be used

1 against the defendant in any subsequent hearing, trial, or proceeding subject to the
2 limitations of Fed. R. Evid. 410.

3 **5. WAIVER OF DEFENSES AND APPEAL RIGHTS**

4 The defendant waives (1) any and all motions, defenses, probable cause
5 determinations, and objections that the defendant could assert to the indictment or
6 information; and (2) any right to file an appeal, any collateral attack, and any other writ or
7 motion that challenges the conviction, an order of restitution or forfeiture, the entry of
8 judgment against the defendant, or any aspect of the defendant's sentence, including the
9 manner in which the sentence is determined, including but not limited to any appeals under
10 18 U.S.C. § 3742 (sentencing appeals) and motions under 28 U.S.C. §§ 2241 and 2255
11 (habeas petitions), and any right to file a motion for modification of sentence, including
12 under 18 U.S.C. § 3582(c) (except for the right to file a compassionate release motion under
13 18 U.S.C. § 3582(c)(1)(A) and to appeal the denial of such a motion). This waiver shall
14 result in the dismissal of any appeal, collateral attack, or other motion the defendant might
15 file challenging the conviction, order of restitution or forfeiture, or sentence in this case.
16 This waiver shall not be construed to bar an otherwise-preserved claim of ineffective
17 assistance of counsel or of "prosecutorial misconduct" (as that term is defined by Section
18 II.B of Ariz. Ethics Op. 15-01 (2015)).

19 **6. DISCLOSURE OF INFORMATION**

20 a. The United States retains the unrestricted right to provide information and
21 make any and all statements it deems appropriate to the Probation Office and to the Court
22 in connection with the case.

23 b. Any information, statements, documents, and evidence that the defendant
24 provides to the United States pursuant to this agreement may be used against the defendant
25 at any time.

26 c. The defendant shall cooperate fully with the U.S. Probation Office. Such
27 cooperation shall include providing complete and truthful responses to questions posed by
28 the Probation Office including, but not limited to, questions relating to:

- (1) Criminal convictions, history of drug abuse and mental illness; and
 - (2) Financial information, including present financial assets or liabilities
- that relate to the ability of the defendant to pay a fine.

7. FORFEITURE, CIVIL, AND ADMINISTRATIVE PROCEEDINGS

Nothing in this agreement shall be construed to protect the defendant from administrative or civil forfeiture proceedings or prohibit the United States from proceeding with and/or initiating an action for civil forfeiture. Pursuant to 18 U.S.C. § 3613, all monetary penalties, including restitution imposed by the Court, shall be due immediately upon judgment, shall be subject to immediate enforcement by the United States, and shall be submitted to the Treasury Offset Program so that any federal payment or transfer of returned property the defendant receives may be offset and applied to federal debts (which offset will not affect the periodic payment schedule). If the Court imposes a schedule of payments, the schedule of payments shall be merely a schedule of minimum payments and shall not be a limitation on the methods available to the United States to enforce the judgment.

8. ELEMENTS

Conspiracy to Transport Illegal Aliens for Profit

Beginning on an unknown date and continuing through on or about May 8, 2023, in the District of Arizona:

1. The defendant and others did willfully agree and conspire with each other to commit an offense against the United States, namely, transportation of illegal aliens for profit;
2. The defendant became a member of the conspiracy knowing of its object and intending to help accomplish it; and

The underlying offense of Transportation of an Illegal Alien for Profit requires proof of the following:

1. Hector Cano-Martinez, Joel Cruz-Hernandez, and Pablo Perez-Herrera were

aliens were aliens;

2. Hector Cano-Martinez, Joel Cruz-Hernandez, and Pablo Perez-Herrera were not lawfully in the United States;

3. The defendant knew or acted in reckless disregard of the fact that Hector Cano-Martinez, Joel Cruz-Hernandez, and Pablo Perez-Herrera were not lawfully in the United States;

4. The defendant and/or co-defendant knowingly transported or moved Hector Cano-Martinez, Joel Cruz-Hernandez, and Pablo Perez-Herrera in order to help them remain in the United States illegally; and

5. The defendant and/or co-defendant transported or moved Hector Cano-Martinez, Joel Cruz-Hernandez, and Pablo Perez-Herrera for the purpose of commercial advantage and private financial gain.

9. FACTUAL BASIS

a. The defendant admits that the following facts are true and that if this matter were to proceed to trial the United States could prove the following facts beyond a reasonable doubt:

Beginning on an unknown date and continuing through on or about May 8, 2023, in the District of Arizona, I, Jose Luis Molina-Rodriguez, coordinated and/or recruited co-conspirators through social media sites, including Snapchat, to pick up a combined total of 16 illegal aliens in Southern Arizona and to transport them further into the United States for profit. I knew the individuals my co-conspirators and I picked up and transported were illegal aliens, and we intended to assist them in remaining in the United States unlawfully. Some of the illegal aliens transported were Hector Cano-Martinez, Joel Cruz-Hernandez, and Pablo Perez-Herrera.

During the conspiracy, I provided my co-conspirators with instructions on how, when, and where to pick up the illegal aliens. Specifically, I or another member of the conspiracy, provided my co-conspirators with GPS coordinates on where to pick up the illegal aliens and then provided them with transportation routes designed to circumvent detection by law enforcement.

1 b. The defendant shall swear under oath to the accuracy of this statement and,
2 if the defendant should be called upon to testify about this matter in the future, any
3 intentional material inconsistencies in the defendant's testimony may subject the defendant
4 to additional penalties for perjury or false swearing, which may be enforced by the United
5 States under this agreement.

6 **APPROVAL AND ACCEPTANCE OF THE DEFENDANT**

7 I have read the entire plea agreement with the assistance of my attorney. I
8 understand each of its provisions and I voluntarily agree to it.

9 I have discussed the case and my constitutional and other rights with my attorney.
10 I understand that by entering my plea of guilty I shall waive my rights to plead not guilty,
11 to trial by jury, to confront, cross-examine, and compel the attendance of witnesses, to
12 present evidence in my defense, to remain silent and refuse to be a witness against myself
13 by asserting my privilege against self-incrimination, all with the assistance of counsel, and
14 to be presumed innocent until proven guilty beyond a reasonable doubt.

15 I agree to enter my guilty plea as indicated above on the terms and conditions set
16 forth in this agreement.

17 I have been advised by my attorney of the nature of the charges to which I am
18 entering my guilty plea. I have further been advised by my attorney of the nature and range
19 of the possible sentence and that my ultimate sentence shall be determined by the Court
20 after consideration of the advisory Sentencing Guidelines.

21 My guilty plea is not the result of force, threats, assurances, or promises, other than
22 the promises contained in this agreement. I voluntarily agree to the provisions of this
23 agreement and I agree to be bound according to its provisions.

24 I understand that if I am granted probation or placed on supervised release by the
25 Court, the terms and conditions of such probation/supervised release are subject to
26 modification at any time. I further understand that if I violate any of the conditions of my
27 probation/supervised release, my probation/supervised release may be revoked and upon
28

1 such revocation, notwithstanding any other provision of this agreement, I may be required
2 to serve a term of imprisonment or my sentence otherwise may be altered.

3 This written plea agreement, and any written addenda filed as attachments to this
4 plea agreement, contain all the terms and conditions of the plea. Any additional
5 agreements, if any such agreements exist, shall be recorded in a separate document and
6 may be filed with the Court under seal; accordingly, additional agreements, if any, may not
7 be in the public record.

8 I further agree that promises, including any predictions as to the Sentencing
9 Guideline range or to any Sentencing Guideline factors that will apply, made by anyone
10 (including my attorney) that are not contained within this written plea agreement, are null
11 and void and have no force and effect.

12 I am satisfied that my defense attorney has represented me in a competent manner.

13 I fully understand the terms and conditions of this plea agreement. I am not now
14 using or under the influence of any drug, medication, liquor, or other intoxicant or
15 depressant that would impair my ability to fully understand the terms and conditions of this
16 plea agreement.

17
18 02/01/2024
19 Date


Jose Luis Molina Rodriguez
JOSE LUIS MOLINA-RODRIGUEZ
Defendant

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22 **APPROVAL OF DEFENSE COUNSEL**

23 I have discussed this case and the plea agreement with my client in detail and have
24 advised the defendant of all matters within the scope of Fed. R. Crim. P. 11, the
25 constitutional and other rights of an accused, the factual basis for and the nature of the
26 offense to which the guilty plea will be entered, possible defenses, and the consequences
27 of the guilty plea including the maximum statutory sentence possible. I have further
28 discussed the concept of the advisory Sentencing Guidelines with the defendant. No

1 assurances, promises, or representations have been given to me or to the defendant by the
2 United States or any of its representatives that are not contained in this written agreement.
3 I concur in the entry of the plea as indicated above and that the terms and conditions set
4 forth in this agreement are in the best interests of my client. I agree to make a bona fide
5 effort to ensure that the guilty plea is entered in accordance with all the requirements of
6 Fed. R. Crim. P. 11.

7
8 Date 2/1/2024



BRANDON COTTO
Attorney for Defendant

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10 **UNITED STATES' APPROVAL**

11 I have reviewed this matter and the plea agreement. I agree on behalf of the United
12 States that the terms and conditions set forth are appropriate and are in the best interests of
13 justice.
14

15 GARY M. RESTAINO
United States Attorney
District of Arizona

16
17 1/31/2024
18 Date _____



STUART J. ZANDER
Assistant U.S. Attorney

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21 **COURT'S ACCEPTANCE**

22
23
24 2/20/2024
25 Date _____



HONORABLE STEVEN P. LOGAN
United States District Judge